Before the
Federal Communication Commission
Washington, D. C. 20554

In the Matter of	)	
Developing a Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	
	)	

COMMENTS

of the

CORPORATION COMMISSION OF THE STATE OF KANSAS

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Introduction

In response to the Federal Communications Commission's (Commission) Public Notice[1] released July 25, 2006 in the above-captioned matter, the Corporation Commission of the State of Kansas (KCC) hereby submits the following comments. The Commission seeks comment on the intercarrier compensation reform plan (the "Missoula Plan") filed July 24, 2006.

The National Association of Regulatory Utility Commissioners (NARUC) facilitated an industry effort to negotiate a reform plan for intercarrier compensation. The KCC Staff participated on NARUC's Intercarrier Compensation (ICC) Task Force. While NARUC filed the Missoula plan, the state and Commission committee members did not have direct input into the

[1] *Comment Sought on Missoula Intercarrier Compensation Reform Plan,* CC Docket No. 01-92, DA 06-1510 (WCB July 25, 2006), See Fed. Reg. 45510.

final plan. The Missoula Plan proponents should be congratulated for resolving some serious issues that parties wrestled with for a couple of years during the ICC Task Force meetings.

Missoula Plan Benefits

The Missoula Plan has several significant benefits:

- It resolves how traffic should be exchanged between large Local Exchange Carriers (LECs) that operate the tandem switches and rural LECs that need to interface with many carriers. During the ICC Task Force meetings, this was a contentious issue and some proposals had serious negative consequences for the rural LECs. However, the Missoula Plan strikes a reasonable balance of the various parties' positions.
- It unifies the rates for different types of traffic at least for each LEC. This would significantly reduce arbitrage by carriers delivering multiple types of traffic. It is true that with the Missoula Plan all LECs would not use the same rate, but then the costs among LECs are not the same. Rural LECs have higher costs and often incur significant transport costs to terminate calls to their customers. In addition, reducing rates of rural LECs to match the rates of large LECs would tax the ability of the Restructure Mechanism (RM) to fund the revenue recovery required for the rural LECs. Nonetheless, unifying the rates for different types of traffic for each LEC is a giant step forward.
- It identifies a series of steps that carriers must take to eliminate phantom traffic.

- It is a comprehensive plan and covers a wide range of issues. It does provide the parties with a framework to address the many issues the Commission faces. Hopefully, parties will address their issues and offer better solutions rather than tear down the comprehensive, interconnected relationships of the Missoula Plan.

First Adopter State Issue

The Missoula Plan provides for an Early Adopter Fund:

> 1. The Commission will create a new federal Early Adopter Fund of at least $200 million or what ever greater amount it determines to be an appropriate percentage of State access reduction funds that should be covered by the Early Adopter Fund. This mechanism will enable States to recover some of the funding that they have distributed to carriers that have reduced their intrastate access rates. Early Adopter funding must be used to decrease the size of explicit State funding mechanisms.[2]

One of the major problems the Commission faces is the disparity between interstate and intrastate access rates. Since 1984 the Commission has made an effort to restructure access rates and to remove fixed costs from the usage sensitive rates. Since 1996 the Commission has tried to remove hidden subsidies contained in interstate usage sensitive rates (i.e. removing DEM weighting, CCL and the RIC rates[3]). Some states took the

[2] Missoula Plan, p 76. (footnotes 26 and 27 in original text not restated here).
[3] DEM is Dial Equipment Minutes used to recover switching costs for small LECs, CCL is Carrier Common Line used to recover loop costs, and RIC is the Restructured Interconnection Charge used to recover transport and other costs previously included in transport rate elements.

Telecommunications Act of 1996 (TA96) to heart and reduced intrastate switched access rates. Some states are at parity with interstate rates and others are close. Attachment 1 is a list of states that reported to NARUC that they reduced access rates and the amount of the reduction. This information is not complete at this time, but is the most comprehensive information gathered to this point. As part of implementing access reductions, a number of states created state Universal Service Funds (USF) to help fund recovery of lost revenue caused by reducing access rates. Other states did not create a state USF but rebalanced lost access revenue to local rates. Many states did a combination by creating both a state USF and rebalancing to local rates. Most, but not all, of the state rebalancing occurred after the passage of TA96. In July, 2006, the National Regulatory Research Institute (NRRI) published survey results entitled, *State Universal Service Funding Mechanisms: Results of the NRRI's 2005-2006 Survey* (Survey). Table 21 in the Survey shows the high cost portion of the state USF programs. As reflected in Attachment 2, which is a replication of significant data in the Survey, the state USF programs are providing $1.4 B in high cost support. This represents only a portion of the actual access rate reductions. Other amounts were rebalanced to basic local rates, some to other local rates (i.e. vertical services like call waiting, caller ID, etc.) and some were not recovered by the ILECs.

To the extent that states reduced intrastate access rates so that they are in parity with interstate access rates, the Missoula Plan will have no impact on Track 3 LECs since the Missoula Plan only requires their intrastate access rates to be in parity with their interstate rates. The effect on Track 2 carriers may vary based on the situation of the carrier and whether the carrier was a participant in the CALLS plan. For Kansas, Embarq has interstate rates set by CALLS, and those rates would increase slightly. Higher rates are probably appropriate for Embarq in Kansas since its service areas are quite rural in nature and its costs are more akin to the rural LECs than to Southwestern Bell Telephone Co (SWBT). Embarq's intrastate rates are higher than its interstate rates and would be decreased by the Missoula Plan. It is expected that the overall effect of the Missoula Plan on Embarq in Kansas would be close to zero. The RBOC in Kansas, SWBT, would decrease its interstate rates under the plan. Consequently, its intrastate rates would decrease as well. It is expected that the reductions can be recovered through the increase in the SLC and not have any impact on the Restructure Mechanism (RM). SWBT's SLC is set at $5.67 and customers' rates would not increase on average more than $3.50. The overall impact of the plan on Kansas is that interconnection rates for SWBT would be reduced and there would be an increase in the SLC for that company's customers. Perhaps the biggest impact is that Kansas customers would see an increase in Federal assessments to fund the RM.

In states that have high intrastate access rates and have not rebalanced, the story is substantially different. Their Track 3 LECs will make large access reductions, recovering a small amount ($2.25) from a SLC increase and the rest funded by the RM. Since most rural LECs have few lines, the amount that can be recovered from flat rate line charges is small when compared to the Track 1 LECs that have many more lines. Through the restructuring that has occurred in Kansas, the customers served by Track 3 LECs saw average local rate increases of $5.00 with the largest being $8.50. Those rates are scheduled to increase another $3.25 over the next two years.[4] Sizeable flat rate increases are appropriate when the local rates in the state are low when compared to a national "minimum benchmark." At the same time, the Commission should be conscious of the impact of rate shock. In the Kansas transition, the flat rate increases to basic service were limited to $2.00 per year for rural LECs and up to $2.25 for some of Embarq's residential customers. In addition, the KCC implemented and later augmented a state Lifeline program to help low income subscribers retain service. During the years of transition (1996 - 2005), Kansas has not seen a

[4] The current target rate for rural LECs is $12 for residential and will increase to approximately $15.25 under K.S.A. 66-2005 (e)(1)(C), which provides for a recalculation of the average rural rate every two years. In Docket No. 07-GIMT-276-GIT, the KCC will determine that new average rates and rural LECs that receive support from the Kansas Universal Service Fund (KUSF), will move to the higher rate in $2.00 increments and reduce the amount of support they draw from the KUSF.

decline in subscribership (1996 = 93.9; 2005 = 94.3)[5]. Since 2001, access lines in service have decreased, but this can be attributed to the growth of wireless service and broadband access, and has not affected subscribership rates. Enlarging the SLC increase in states that have not rebalanced is one small step toward reducing the burden on states that have rebalanced as well as all supporters of the RM.

The greater injustice is that states like Kansas, that have reduced access charges, would be required to fund other states' rebalancing effort, since it would be implemented by the Commission on a national scale. It is clearly unfair that states that implemented TA96 by reducing access rates should pay once to lower their own access rates and pay again to lower the rates in states that did not previously do so. The Missoula Plan makes mention of this aspect and sets aside $ 200M to fund the First Adopter States.[6] It is obvious from the amounts in Attachments 1 and 2 that this amount is woefully inadequate. As the plan now exists it rewards states that failed to implement access reductions and makes a token recognition of those that implemented TA96. Members of state commissions in the First Adopter States have been meeting with the Missoula proponents to try to work out a more reasonable amount and approach. Based on discussions among the first

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[5] *Telephone Subscribership in the United States,* (Data through November 2006), published May 2006 by the FCC, Table 3 Percentage of Households with a Telephone by State, pp 18 & 22.
[6] Missoula Plan, p 76.

adopter states, it does not appear that any state is expecting 100% recovery of its access reductions, but they believe that an amount much larger than $ 200M is appropriate.

Following are several reasons why 100% of the first adopter reductions should not be recognized:

1. Realistically, the cost of rebalancing would become too large if the full amount of access reductions by first adopter states are recognized, and all attempts at access reductions would be untenable.
2. If the Missoula Plan is implemented, 100% of the reduction will not be recovered from the RM. Much, if not most, of the recovery will be funded by increases in the SLC paid by the subscribers within their respective states. Likewise, much, if not most, of the access reductions in the First Adopter States should be recovered within the state.
3. Since the reductions were made, the number of access Minutes of Use (MOU) may have decreased when compared to the number of MOU if rebalancing were done today. Consequently, the access reduction would be less today than when it was first done. For Kansas the intrastate access MOU are 78% of what they were in 1997 when access rates were first rebalanced.[7] Kansas attributes the decline in recent

[7] In 1997, Kansas ILECs had 2.3B MOU and in 2005 it had 1.8B MOU. Summary of Kansas LEC annual reports, Schedule 20.

years to the use of e-mail in lieu of long distance and the loss of access lines to competitors.

4. Some LECs were overearning at the time of the rebalancing and full revenue neutral recovery was not implemented. In this situation, access rates were reduced but other rates were not increased to recover the reduction. From one perspective, it seems inappropriate for the First Adopter Fund to include this category of access reduction, since it is not currently recovered. However, if the state had allowed recovery of the access reduction through a state USF and simply lowered local rates to address the overearnings situation, then its access reduction would more than likely be recognized. Also an overearnings review will not be performed in those states that would reduce access rates under the Missoula Plan, so an argument could be made that this type of access reduction should be considered.

5. Some of the reductions might have been for recovery of an imputed access amount in intraLATA toll rates. SWBT does not charge itself access charges; so in lieu of reducing access charges, SWBT was allowed to recover a similar reduction in its Kansas intraLATA toll rates. This type of recovery seemed reasonable in 1997, but with long distance service becoming a deregulated service, perhaps no recovery would be allowed today. It is doubtful that states that have not reduced access rates will count any imputed access charges for the

RBOC's intraLATA toll service under the Missoula Plan. Kansas also restructured intrastate Billing and Collection rates from the $3.00 per bill charge to 5¢ per message. This was a form of subsidy at the time and was appropriately removed from Billing and Collection rates. Billing and Collection rates will not be restructured under the Missoula Plan and past rebalancing of those revenues should probably be excluded by First Adopter States.

Recommendation on Recovery for First Adopter States

While 100% of the access reductions should not be recognized, the KCC believes that a substantial recognition and recovery should occur for the access reductions performed by the first adopter states. This should accomplish two objectives. First Adopter Funding should reduce the amounts currently recovered through a state USF program and provide support so that local rates that are above a "maximum benchmark" can be reduced. This two pronged approach will recognize states that rebalanced to a state USF and those states that simply rebalanced it all to local rates.

Table 1 below shows how this would work for the rebalancing that has occurred within the state of Kansas. This is a two part test. Step A determines that the state has reduced access rates. Only states that have made access reductions qualify to be a First Adopter State. The 75%

Recognition Factor is to discount prior reductions for the decrease in access MOU. Step B then determines how much of the reduction should be recovered from the First Adopter Fund. One of the purposes of the First Adopter Fund is to keep rates affordable. So to the extent that the rates are too high, First Adopter Fund support should be provided, as shown in Step B2.

Table 1 Calculation of First Adopter Funding for Kansas

(Amounts are in Millions)

Step A	Amount	Discount %	Recognized Amount
Access Charge Reductions			164.0
Less:			
Reductions for intraLATA Toll	23.0	75%[8]	17.3
Reductions for Billing & Collections	6.0[9]	100%	6.0
Access Reductions for Kansas			140.7
Recognition % (adjust for fewer MOU)			75%
Amount Recognized for First Adopter Recovery			105.5
Step B1 State USF High Cost Support			
Current Support from State USF[10]	45.0		
Scheduled Rebalance to Local *	4.5		
	40.5		
Step B2 High Local Rates			
Local Rates above Benchmark	0.0		40.5
Amount Eligible for First Adopter Recovery			**40.5**
(the lesser of Step A or Steps B1 + B2)			

* Local rates for Rural LECs are scheduled to rise by $3.25 and the increase will cause the KUSF to be reduced by a like amount.

Step B1 of this method recognizes the amount supported by state USF funds. State funds were created to keep the local rates affordable for customers. In states where rebalancing was predominantly to local rates, the benchmark

[8] A 75% discount factor is used for the intraLATA toll imputation. This recognizes only 25% of that reduction and takes into account that a lot of that traffic has shifted to CLECs and wireless and at least terminating access charges would be charged for that traffic today.

[9] The amount for Billing and Collection is estimated.

[10] "Current Support from the State USF" of $45.0M differs from the amount on Attachment 2 for Kansas, since this is a more recent number.

test in Step B2 would identify companies that have rates that are too high.[11] If the rates are too high, then the First Adopter Fund should be used to help those companies reduce local rates. An example of the high rate criterion is contained in Attachment 3. This is an illustration and uses a set of revenues/rates that are readily available within most states. Parties might suggest other combinations of revenues, but the concept is clear. The KCC believes that any calculation of this type of benchmark needs to be on a company basis, since rates may vary substantially from company to company within a state. For Kansas, local rates were raised substantially, but the KCC made an effort to keep rates affordable. Therefore, we do not show Kansas companies as qualifying for the high rate criterion in Step B2. As stated earlier, since Kansas intrastate access rates are already at parity with interstate rates, the expected increase in the SLC would only occur for SWBT, since it is reducing its interstate as well as its intrastate rates. In states that have not rebalanced, all the SLCs would increase. The KCC recommends that the SLC increase substantially when local rates are below a "minimum benchmark" threshold. This would assure that customers in those states are paying their fair share before receiving RM support.

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[11] Although not represented here, if local rates are too low (below a minimum benchmark), the amount of funding in Step B1, State USF, could be reduced by a negative amount in Step B2. RLEC 3 on Attachment 3 is an example where local rates are too low. This would address situations where states did not adjust local rates and funded all the revenue recovery through the state USF.

If Steps B1 and B2 appear to be too complex and it is feared that they would create more controversy than benefit, the KCC suggests a simpler approach, which is to simply adjust the percent used in Step A. While Kansas may not be totally representative of all the First Adopter States, a simple 30% factor[12] when applied to the $ 140.7M calculates $42.2M eligible for First Adopter relief in Kansas, roughly equal to amount calculated in Steps B1 and B2. If the Commission receives specific information from several states that have done a balanced approach[13] like Kansas, maybe a reasonable factor could be developed that would give all First Adopter States some recognition for their access reductions. For illustrative purposes, applying the 30% factor to the access reductions shown on Attachment 1, the First Adopter support amount would be $ 828M.[14] This is substantially greater than the $ 200M identified in the Missoula Plan.

Dispensing First Adopter Fund Support to States

The KCC recommends that those states that have state USF funds receive support directly from the First Adopter Fund on a monthly basis and that distribution of support be maintained as it is today. At the least, this would work as an interim method. State funds may also support services like Lifeline, Relay Centers, etc. thus, the state assessments and administration

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[12] 30% is calculated as $40.5M / $140.7M = 28.8%, rounded to 30% for illustrative purposes.
[13] "Balanced approach" refers to increasing local rates substantially and then creating a state USF to support high cost companies to keep rates affordable.
[14] Calculation uses the Average column: $ 2,758.4M x 30% = $827.52M, rounded to $828M.

will need to continue, though at a much lower assessment rate. For First Adopter Fund support that reduces local rates, the amounts could be disbursed directly to the companies. First Adopter Fund support would occur only after the state commission certified that the state USF fund assessment rate would be reduced or local rates would be reduced on a specific date.

Recommendation on the Missoula Plan

The access reductions for First Adopter States should be recognized and funded by the First Adopter Fund. The $ 200M amount in the Missoula Plan is inadequate. The KCC has recommended a reasonable method for computing the First Adopter Fund. Although the Missoula Plan treats the First Adopter Fund separately from the RM, from an administrative perspective, both the First Adopter Fund and the RM should be treated as one funding mechanism. Absent reasonable recovery by First Adopter States, the KCC does not believe that the Missoula Plan should be implemented. Regardless of the Commission's decision on the Missoula Plan, the KCC believes that the Commission should take immediate action to implement the procedures for phantom traffic.

Respectfully Submitted,

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